HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.19309 of 1997

Dated 10th day of April, 2007

Between:

K. Rajaiah (died)
and another ..
Petitioners

And

The Authorized Officer (Divisional
Forest Officer), Hyderabad
and two others ..
Respondents

O R D E R:

This writ petition is filed to quash the judgment dated 26.3.1997 delivered in C.M.A.No.317 of 1992 by the 3rd respondent-Chief Judge, City Civil Courts, Hyderabad, and consequently direct the respondents to return the bank guarantee furnished by the 1st petitioner for release of the seized timber.

The brief facts of the case are that the 1st petitioner, being a Carpenter, entered into a contract with one A. Gopala Rao, who was constructing flats at Madhuranagar Colony, Yousufguda, Hyderabad, for supply of door shutters & window frames, and purchased 50 numbers of teak wood logs (56665 CTMT) from M/s.Lakshmi Timber and Furniture Works, Warangal on 8.2.1987 and got them sawn into various sizes. He also purchased 49 teak wood logs and got them sawn into sizes on 15.2.1987. These purchases are evidenced by cash bills dated 8.2.1987 and 13.2.1987 respectively. He also purchased teakwood from M/s.Vinayaka Saw Mills and kept the entire stock in the premises belonging to Gopal Rao. On 8.3.1987, the 2nd respondent inspected the premises of Gopal Rao and seized the timber without measuring and writing any panchanama to that effect and the 1st petitioner was not present at that time. It is further stated that during the pendency of the enquiry before the 1st respondent, the 1st petitioner filed W.P.No.36 of 1988 and this Court disposed it of with a direction to the 1st respondent to release the timber on the 1st petitioner furnishing bank guarantee in a sum of Rs.1,30,000/- and accordingly he furnished the bank guarantee and the timber was released. Now, the petitioner's grievance is that the 1st respondent,

without considering the material on record, passed an order dated 8.1.1988 confiscating the seized timber to the Government. Against this order, when the 1st petitioner preferred C.M.A.No.317 of 1992, the learned Chief Judge, City Civil Courts, Hyderabad, dismissed it without considering the material on record in proper perspective.

Heard the learned counsel for both the parties.

The main contention of the learned counsel for the petitioners is that the wood seized was cut into sizes, as such, it does not require any permit. In this context, he has drawn my attention to Rule-2 of A.P. Teakwood Possession Rules, 1970 and also Rule-4 and Sub-rule(9) of Rule-5 of A.P. Forest Produce Transit Rules, 1970.

From a perusal of these provisions of law, it is clear that the 1st petitioner does not require any transit permit for small sizes of wood purchased in retail from Saw Mills within municipal areas, but the conduct of the 1st petitioner as spoken by one of the witnesses by name Krishna Mohan, amply establishes that though the 1st petitioner does not require any transit permit, he is carrying on illegal timber. If really the 1st petitioner was in valid possession of the timber in sawn sizes there was no necessity for him to threaten Krishna Mohan with dire consequences when he refused to give the bills for transporting the sawn sizes. In this context, it may be relevant to make a mention of the deposition of Krishna Mohan. According to him, he is a dealer in furniture and normally he purchases timber from depots in small quantities and keep the same at Venkata Ramana Saw Mill for want of accommodation. He further stated that on 9th and 10th of March, 1987 the 1st petitioner approached him and requested for some bills with ante-dates for 500 to 600 cft. as if he purchased teakwood from him. When he refused to give bills, as it is a huge quantity, the 1st petitioner threatened him with dire consequences, forcibly opened the table

drawer, picked up some unused bill books and wrote two bills on two different dates. It is further deposed that the 1st petitioner forcibly tore some sheets and took them away with him. All this clearly leads to an inference that the possession of sawn sizes of teakwood by him is not legal. Maybe as contended by the learned counsel or the petitioners, the 1st petitioner may not require any transit permit but at the same time, he must also establish that the possession is legal. Having regard to the fact that he failed to establish that the possession of teakwood in sawn sizes is legal, the authorities are wholly justified in confiscating it in favour of the Government.

Hence, I see no merits in this writ petition, and accordingly, the same is dismissed. No costs.

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10.04.2007

bcj